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ILLINOIS COMMERCE COMMISSION

Office of General Counsel

March 12, 2008

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 - 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 96-45
In the Matter of Federal-State Joint Board on Universal Service
Federal High-Cost Support Certification for Rural Carriers in Illinois

Dear Secretary Dortch:

Pursuant to its May 23, 2001 Rural Task Force ("RTF") Order in the above-referenced proceeding, the Commission required states that wish to receive federal universal service high-cost support for rural carriers within their boundaries to file a certification with the Commission and USAC stating that all federal high-cost funds flowing to rural carriers in that state will be used in a manner consistent with Section 254(e). The Commission ruled that states should be required to file annual certifications with the Commission to ensure that carriers use universal service support "only for the provision, maintenance and upgrading of facilities and services for which the support is intended," consistent with Section 254(e).

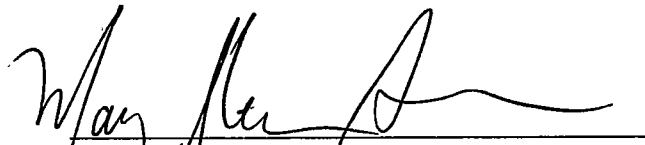
Under 47 C.F.R. 54.314(d)(6), a carrier newly designated as an eligible telecommunications carrier within the meaning of Section 214(e)(2) or (e)(6): "shall be eligible to receive [high cost] support ... as of the effective date of its designation as an eligible telecommunications carrier under section 214(e)(2) or (e)(6), provided that ... the state commission files the certification described in paragraph (a) of this section within 60 days of the effective date of the carrier's designation as an eligible telecommunications carrier."

This filing substantially comports with the Commission's requirement regarding newly-designated eligible rural telecommunications carriers. It lists the rural telecommunications carrier operating in Illinois that has been newly designated by the Illinois Commerce Commission as an eligible telecommunications carrier, by Order of the Commission dated February 27, 2008 (a copy of which is attached), and that has certified by sworn affidavit that all federal universal service support will be used solely for the provision, maintenance and upgrading of facilities and services for which the support is intended.

March 12, 2008

Sincerely,

ILLINOIS COMMERCE COMMISSION


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Newly-Designated Illinois Certified Rural Carriers

**LIST OF NEWLY-DESIGNATED CERTIFIED ELIGIBLE RURAL
TELECOMMUNICATIONS CARRIERS**

USCOC of Illinois RSA #1, LLC
USCOC of Illinois RSA #4, LLC
USCOC of Rockford, LLC
USCOC of Central Illinois, LLC

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

USCOC of Illinois RSA #1, LLC, USCOC of :
Illinois RSA #4, LLC, USCOC of Rockford, :
LLC and USCOC of Central Illinois, LLC : 04-0653
:
Petition for Designation as an Eligible :
Telecommunications Carrier under :
47 U.S.C. §214(e)(2). :

ORDER

February 27, 2008

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STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

USCOC of Illinois RSA #1, LLC, USCOC of :
Illinois RSA #4, LLC, USCOC of Rockford, :
LLC and USCOC of Central Illinois, LLC : 04-0653
:
Petition for Designation as an Eligible :
Telecommunications Carrier under :
47 U.S.C. §214(e)(2). :

ORDER

By the Commission:

I. Procedural History

On November 1, 2004, USCOC of Illinois RSA #1, LLC, USCOC of Illinois RSA #4, LLC, USCOC of Rockford, LLC and USCOC of Central Illinois, LLC (collectively "USCOC" or "Petitioner") filed a petition with the Illinois Commerce Commission (the "Commission") pursuant to §214(e)(2) of the Telecommunications Act of 1934, as amended by the Telecommunications Act of 1996 (47 U.S.C. §214(e)(2)), and 47 C.F.R. §54.201 of the Federal Communications Commission's ("FCC") rules, for designation as an Eligible Telecommunications Carrier ("ETC") in specifically defined areas (Attachment A). Petitioner is a commercial mobile radio service provider pursuant to 47 U.S.C. §153(27). In areas served by non-rural telephone companies, Petitioner requests designation throughout its FCC-licensed area (Attachment B). Where Petitioner serves only a portion of a wire center listed, it requests designation in that portion of the wire center where it has FCC authorization. In areas served by a rural telephone company (Attachment C), Petitioner requests designation for the entire rural local exchange carrier ("LEC") area. Petitioner also requests that where portions of an incumbent local exchange carrier's ("ILEC") study area fall outside of Petitioner's proposed ETC service area (Attachment D), the ILEC service areas be redefined pursuant to 47 C.F.R. §54.207(c) in order to facilitate competitive entry and advance universal service for Petitioner's customers.

Petitions for Leave to Intervene in this matter were filed by Illinois Bell Telephone Company ("Illinois Bell"), Verizon North Inc. and Verizon South Inc., Citizens Telecommunications Company of Illinois, Illinois Independent Telephone Association ("IITA"), Adams Telephone Cooperative Association, Cambridge Telephone Company, Cass Telephone Company, C-R Telephone Company, Geneseo Telephone Company, LaHarpe Telephone Company, McDonough Telephone Cooperative, McNabb Telephone Company, Mid Century Telephone Cooperative, Moultrie Independent

Telephone Company, Reynolds Telephone Company, The El Paso Telephone Company, Odin Telephone Exchange, Inc., Wabash Telephone Cooperative, Inc., Yates City Telephone Company, Grafton Telephone Company, Bergen Telephone Company, Glasford Telephone Company, Leaf River Telephone Company, Montrose Mutual Telephone Company, New Windsor Telephone Company, Oneida Telephone Company, Sharon Telephone Company, Viola Home Telephone Company, Woodhull Community Telephone Company, Frontier Communications of DePue, Inc., Frontier Communications of Illinois, Inc., Frontier Communications of Lakeside, Inc., Frontier Communications-Midland, Inc., Frontier Communications of Mt. Pulaski, Inc., Frontier Communications of Orion, Inc., Frontier Communications-Prairie, Inc., and Frontier Communications-Schuyler, Inc. All Petitions for Leave to Intervene were granted.

Petitioner filed the direct testimony of Ken Borner (Petitioner Exh. 1) and Conrad Hunter (Petitioner Exh. 2), the rebuttal testimony of Don J. Wood (Petitioner Exh. 3) and Hunter (Petitioner Exh. 4), the surrebuttal testimony of Wood (Petitioner Exh. 5) and Hunter (Petitioner Exh. 6), the corrected rebuttal testimony of Wood (Petitioner Exh. 7), the supplemental surrebuttal testimony of Hunter (Petitioner Exh. A1) and the supplemental surrebuttal testimony of Wood (Petitioner Exh. A2). IITA filed the direct (IITA Exh. 1), rebuttal (IITA Exh. 2) and further rebuttal (IITA Exh. 3) testimony of Robert C. Schoonmaker. Staff filed the direct, rebuttal and supplemental testimony of Jeffrey H. Hoagg (Staff Exhs. 1, 6 and 16), James Zolnieriek (Staff Exhs. 2 and 7), Samuel S. McClerren (Staff Exhs. 3 and 9), Mark A. Hanson (Staff Exhs. 4 and 8), and Marci Schroll (Staff Exhs. 5 and 10). Illinois Bell filed the rebuttal testimony and supplemental testimony of James E. Stidham (Illinois Bell Exhs. 1 and 2). All parties agreed to waive hearing. On September 14, 2005, the record was marked "Heard and Taken". Petitioner, IITA, Illinois Bell and Staff filed Briefs and Reply Briefs.

On June 6, 2006, the ALJ issued a Proposed Order in this Docket. Petitioner, Staff, IITA and Illinois Bell filed Briefs on Exceptions and Reply Briefs on Exceptions. On October 12, 2006, the Commission entered an Interim Order in this Docket that neither granted nor denied USCOC's petition. It noted various deficiencies in Petitioner's proposed supported services for (1) Voice Grade Access to the Public Switched Network, (2) Local Usage, (5) Access to Emergency Services and (9) Toll Limitation for Qualifying Low-Income Customers, as well as deficiencies in V-Redefinition and Creamskimming (failure to address creamskimming concerns), VI-Service Quality, and VII-failure to file a Five-Year Plan. The Commission granted Petitioner additional time to supplement the Petition and thereby bring it into compliance with all applicable statutes, rules and regulations. On February 2, 2007, Petitioner submitted the Declaration of Conrad J. Hunter (Petitioner Exhibit B) containing the responses to finding Paragraphs 9 through 15 in the Interim Order (Petitioner Exhibits: B1-Active Consumer Plans; B2-ILEC Rate Comparison; C-Population Density of Wabash Telephone Cooperative Wire Centers; D-Five-Year Plan including Appendices 1-9; E-Supplemental Compliance Filing submitted April 13, 2007 including Estimated spending in Illinois Proposed ETC Service Area 2005-2006). Subsequent to the Petitioner's supplemental filings, the ALJ set a schedule for the submission of additional testimony, exhibits and briefs. The summary of the supplemental filings, testimony and

briefs and the Commission Analysis and Conclusions based on those submissions, is presented in Section XII.

On November 20, 2007, the ALJ issued a Post Interim Proposed Order that considers all of Petitioner's supplemental evidence in addition to all of the original evidence submitted by the Parties. Petitioner, Staff and IITA filed Briefs on Exceptions and Reply Briefs on Exceptions (summarized in Section XIV). The Commission concludes in Section XII that Petitioner remedied the cited deficiencies, is in compliance with all applicable statutes, rules and regulations and that ETC designation should be granted. The single exception is the Verizon South service area. The Commission originally denied ETC designation for this area and it was not included in the list of deficiencies to be remedied by the supplemental filings. Consequently, our decision to deny ETC designation for the Verizon South service area remains unchanged.

Petitioner's request for waiver and variance of certain sections of 83 Ill. Adm. Code 730 and 735 is contained in Section XIII. The Commission's Finding and Ordering Paragraphs are renumbered XV. This matter was marked "Heard and Taken" on August 7, 2007, reopened on October 11, 2007, and again marked "Heard and Taken" on January 18, 2008.

II. Statutory Authority

Section 214(e)(2) of the Telecommunications Act of 1996 states, in relevant part:

(e) Provision of universal service.

(1) Eligible telecommunications carriers. A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with 47 U.S.C. §254 and shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under §254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefore using media of general distribution.

(2) Designation of eligible telecommunications carriers. A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public

interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

(3) Designation of eligible telecommunications carriers for unserved areas. If no common carrier will provide the services that are supported by Federal universal service support mechanisms under §254(c) to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services or an area served by a common carrier to which paragraph (6) applies, or a State commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof. Any carrier or carriers ordered to provide such service under this paragraph shall meet the requirements of paragraph (1) and shall be designated as an eligible telecommunications carrier for that community or portion thereof.

(4) Relinquishment of universal service. A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission shall establish a time, not to exceed one year after the State commission approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

(5) "Service area" defined. The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under 47 U.S.C. §410(c) to establish a different definition of service area for such company.

Pursuant to 47 C.F.R. §54.101(a), the following services and functions are to be offered by an ETC:

- (1) voice grade access to the public switched network;
- (2) local usage;
- (3) dual tone multi-frequency or its functional equivalent;
- (4) single-party service or its functional equivalent;
- (5) access to emergency services;
- (6) access to operator services;
- (7) access to interexchange service;
- (8) access to directory assistance;
- (9) toll limitation for qualifying low-income customers.

ETCs must also provide Lifeline and Link-up services and advertise the availability of each service in a manner reasonably designed to reach those likely to qualify for such services (47 C.F.R. §§54.405; 54.411).

47 U.S.C. §254(b) defines the "Universal Service Principles" to guide regulatory bodies in preserving and advancing universal service. Section 254(b) of the Federal Act provides as follows:

(b) **UNIVERSAL SERVICE PRINCIPLES.**--The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

- (1) **QUALITY AND RATES.**--Quality services should be available at just, reasonable, and affordable rates.
- (2) **ACCESS TO ADVANCED SERVICES.**--Access to advanced telecommunications and information services should be provided in all regions of the Nation.
- (3) **ACCESS IN RURAL AND HIGH COST AREAS.**--Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications

and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

(4) **EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.**-- All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

(5) **SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS.**--There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

(6) **ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES FOR SCHOOLS, HEALTH CARE, AND LIBRARIES.**--Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h).

(7) **ADDITIONAL PRINCIPLES.**--Such other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with this Act.

Pursuant to 47 U.S.C. §254(b)(7), the FCC adopted the following additional principle regarding competitive neutrality:

COMPETITIVE NEUTRALITY -- Universal service support mechanisms and rules should be competitively neutral. In this context, competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.

III. ETC Order

While this docket was pending, the FCC issued *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC-05-46 (March 17, 2005) ("ETC Order"), clarifying existing requirements and imposing additional requirements that the FCC will use in evaluating applications for ETC designation. In ¶1, the FCC referred to these additional guidelines as "the minimum requirements" it would use in designating a carrier as an ETC, and urged that these procedures serve as guidelines for state commissions to follow in their evaluation of ETC applications properly before those commissions. These additional guidelines are codified in 47 CFR

§54.202. State commissions are not bound by the guidelines in the ETC Order when they evaluate ETC applications. *Id.* at ¶¶58-64.

The ETC Order requires that ETC applicants demonstrate: (1) a commitment and ability to provide services, including providing service to all customers within its proposed service area; (2) how it will remain functional in emergency situations; (3) that it will satisfy consumer protection and service quality standards; (4) that it offers local usage comparable to that offered by the incumbent LEC; and (5) an understanding that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to section 214(e)(4) of the Act. (ETC Order ¶20)

More specifically, the guidelines in the FCC's ETC Order require that an ETC Applicant commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. (47 C.F.R. §54.202(a)(1)(i)). Paragraph 20 of the ETC Order provides a more complete explanation:

[W]e agree with and adopt the Joint Board recommendation to establish a requirement that an ETC applicant demonstrate its capability and commitment to provide service throughout its designated service area to all customers who make a reasonable request for service. . . . If the ETC's network already passes or covers the potential customer's premises, the ETC should provide service immediately.

In those instances where a request comes from a potential customer within the applicant's licensed service area but outside its existing network coverage, the ETC applicant should provide service within a reasonable period of time if service can be provided at reasonable cost by: (1) modifying or replacing the requesting customer's equipment; (2) deploying a roof-mounted antenna or other equipment; (3) adjusting the nearest cell tower; (4) adjusting network or customer facilities; (5) reselling services from another carrier's facilities to provide service; or (6) employing, leasing, or constructing an additional cell site, cell extender, repeater, or other similar equipment. We believe that these requirements will ensure that an ETC applicant is committed to serving customers within the entire area for which it is designated. If an ETC applicant determines that it cannot serve the customer using one or more of these methods, then the ETC must report the unfulfilled request to the Commission within 30 days after making such determination. (ETC Order ¶22).

An ETC Applicant shall also submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire

center basis throughout its proposed designated service area. (47 CFR §54.202(a)(1)(ii)). Paragraph 23 of the ETC Order explains more fully:

[W]e require an applicant seeking ETC designation from the Commission to submit a formal plan detailing how it will use universal service support to improve service within the service areas for which it seeks designation. Specifically, we require that an ETC applicant submit a five-year plan describing with specificity its proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its designated service area. The five-year plan must demonstrate in detail how high-cost support will be used for service improvements that would not occur absent receipt of such support.

This showing must include: (1) how signal quality, coverage, or capacity will improve due to the receipt of high-cost support throughout the area for which the ETC seeks designation; (2) the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; (3) the specific geographic areas where the improvements will be made; and (4) the estimated population that will be served as a result of the improvements. To demonstrate that supported improvements in service will be made throughout the service area, applicants should provide this information for each wire center in each service area for which they expect to receive universal service support, or an explanation of why service improvements in a particular wire center are not needed and how funding will otherwise be used to further the provision of supported services in that area. We clarify that service quality improvements in the five-year plan do not necessarily require additional construction of network facilities. (ETC Order ¶23).

An ETC Applicant shall demonstrate its ability to remain functional in emergency situations. (47 CFR §54.202(a)(2)). Paragraph 25 of the ETC Order explains more fully, as follows:

Specifically, in order to be designated as an ETC, an applicant must demonstrate it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. We believe that functionality during emergency situations is an important consideration for the public interest.

An ETC Applicant shall demonstrate that it will satisfy applicable consumer protection and service quality standards. (47 CFR §54.202(a)(3)). Paragraph 28 of the ETC Order contains a more complete explanation:

We find that an ETC applicant must make a specific commitment to objective measures to protect consumers. Consistent with the designation framework established in the *Virginia Cellular ETC Designation Order* and *Highland Cellular ETC Designation Order* and as suggested by commenters, a commitment to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement for a wireless ETC applicant seeking designation before the Commission. We will consider the sufficiency of other commitments on a case-by-case basis. . . . In addition, an ETC applicant, as described *infra*, must report information on consumer complaints per 1,000 handsets or lines on an annual basis.

The ETC Order further states that, "Therefore, states may extend generally applicable, competitively neutral requirements that do not regulate rates or entry and that are consistent with §§214 and 254 of the Act to all ETCs in order to preserve and advance universal service." (ETC Order ¶31).

An ETC Applicant shall also demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation. The FCC has not adopted a specific local usage threshold. (ETC Order ¶32; 47 CFR §54.202(a)(4)). An ETC Applicant shall certify that the FCC may require it to provide equal access to long distance carriers if no other ETC is providing equal access within the service area. (ETC Order ¶35; 47 CFR §54.202(a)(5)). The FCC has also imposed certain reporting requirements in connection with the annual certification of ETCs. (47 CFR §54.209).

Pursuant to §214(e)(2), a state Commission, before designating an additional ETC for an area served by a rural telephone company, must find such designation to be in the public interest. In the ETC Order ¶3, the FCC clarified the public interest analysis for ETC designations by adopting the fact-specific public interest analysis developed in prior orders. The FCC acknowledged that Congress did not establish specific criteria to be applied under the public interest test. The FCC stated that the public interest benefits of a particular ETC designation must be analyzed in a manner that is: (1) consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; (2) ensuring the availability of quality telecommunications services at just reasonable and affordable rates; and (3) promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high cost areas.

In cases before the FCC, the FCC stated that it would first consider a variety of factors in the overall ETC determination, including an examination of the benefits of

increased consumer choice, and the unique advantages and disadvantages of the competitor's service offering. Second, in areas where an ETC applicant seeks designation below the study area level of a rural telephone company, the FCC said it will also conduct a "creamskimming" analysis that compares the population density of each such wire center in which the ETC applicant seeks designation against that of all wire centers in the study area in which the ETC applicant does not seek designation. ETC Order ¶¶41; 47 CFR §54.202(c)).

The FCC declined to adopt a specific test to use when considering if the designation of an ETC will affect the size and sustainability of the high-cost fund. However, it did identify the level of federal high-cost per-line support in a given wire center as one relevant factor in considering whether or not it is in the public interest to have additional ETCs designated in that wire center. (ETC Order ¶¶ 54-55).

The FCC asserted §214(e)(2) "demonstrates Congress's intent that state commissions evaluate local factual situations in ETC cases and exercise discretion in reaching their conclusions regarding the public interest, convenience and necessity, as long as such determinations are consistent with federal and other state law." The FCC also noted that states "are particularly well-equipped to determine their own ETC eligibility requirements." (ETC Order ¶¶61). In the instant docket, IITA and ICC Staff witnesses proposed additional criteria, in some circumstances beyond those contained in the ETC Order, to meet the public interest. In addition, "state commissions possess the authority to revoke ETC designations for failure of an ETC to comply with the requirement of §214(e) of the Act or any other conditions imposed by the state." (ETC Order ¶¶72).

IV. 47 C.F.R. §54.101(a)

This matter comes before the Commission by USCOC's petition for Designation as an ETC pursuant to 47 U.S.C. §214(e)(2) and 47 C.F.R. §54.101. Multiple issues were raised in this proceeding ¶¶ by IITA and Staff with regard to Petitioner's ability and/or willingness to provide the nine services listed under §54.101(a) for the entire service area for which it seeks ETC designation, and whether Petitioner therefore meets the public interest requirements of §214(e)(2). The FCC's ETC Order is replete with acknowledgements that its provisions are not mandatory for state Commissions. (ETC Order, ¶¶1, ¶¶19, ¶¶61). The Commission notes, however, that application of the ETC Order to ETC petitions is strongly urged by the FCC (ETC Order, ¶¶1), and we regard the non-mandatory nature of the ETC Order as granting the Commission a considerable amount of latitude in deciding whether to apply the terms of the ETC Order to Petitioner. We have taken the FCC's recommendations seriously in this docket and further note that Staff and IITA repeatedly applied various aspects of the ETC Order to USCOC's petition in order to demonstrate what each party believes are the petition's insufficiencies. Illinois Bell repeatedly urged that this petition be evaluated in the context of the guidelines set forth in the ETC Order. The discussion that follows recognizes that the ETC Order is advisory only, however the Commission has adopted many of its provisions as a guide to reaching the Conclusions and Findings below. This

specifically includes the language of ¶44, wherein the FCC imposed upon the ETC Applicant the burden of proving that it has satisfied the criteria for designation and that such designation is in the public interest. (ETC Order ¶44). We adopt the same standard for this docket.

The Proposed Order addresses the nine supported services under §54.101, but reflects that not every party specifically addressed each of the nine issues. This is followed by the parties' positions and discussions of Redefinition and Creamskimming, Service Quality, Five-Year Plan, Lifeline and Link Up, Provider of Last Resort, and Additional Arguments.

1. Voice Grade Access to the Public Switched Network

"Voice grade access" is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz;

a. Petitioner

Petitioner asserted that, pursuant to 47 C.F.R. §54.101(a), it is required to demonstrate that it has the capability to offer and advertise the nine supported services throughout its proposed ETC service area. Petitioner stated unequivocally that it can provide these services, and is doing so in other jurisdictions. It emphasized, however, that an ETC is not required by Federal law to be providing these services prior to ETC designation. (Petitioner Exh. 1 at 2, Exh. 2 at 4). Petitioner also stated that the plain language of §54.101(a)(7) mandates only access to interexchange service, not equal access.

Petitioner stated that, as required by 47 C.F.R. §54.201(d)(2), it has committed to advertise the supported services throughout its proposed service area. IITA's assertion that a carrier must be providing facilities-based service when it files its ETC petition mischaracterizes 47 U.S.C. §214(e)(1)(A). This subsection requires a carrier to use its own facilities or a combination of its own and the resale of another carrier's. Since no supporting funds are available for customers served solely by resale, Petitioner argued that it has every incentive to use its own facilities.

Petitioner explained that federal universal service policy dictates that consumers in rural areas be granted the same choice of telecommunications service as consumers in urban areas, yet many rural Illinois communities do not enjoy the same service quality and quantity as in urban centers. Allowing Petitioner to use high cost support funds to construct new infrastructure in rural areas would bring those areas the benefits of modern technology not otherwise available. Petitioner asserts that IITA will not lose universal service support as a result of Petitioner's designation, but it opposes this

petition so that its constituent members can retain their monopoly on the local exchange marketplace.

b. IITA

IITA stated that it does not contest that, where it is providing service, Petitioner provides the services enumerated in 47 C.F.R §54.101(a). IITA's concern is that there are substantial areas for which Petitioner has requested ETC status, but provides very limited or poor service or provides no service at all. Petitioner's evidence that it is capable of providing the proposed services, plus Lifeline and Linkup, must be measured against areas where it does not provide service and in areas where it does provide service, there is no service plan and price comparable to the plan and service available from the ILEC.

IITA interpreted Section 214(e) of the Act as requiring an ETC applicant to provide services throughout the service area for which designation is received (47 U.S.C. §214(e)). Section 254(b)(3) states that the purpose of universal service funding is to provide access for all consumers to telecommunications services at rates comparable to those offered in urban areas. (47 U.S.C. §254(b)(3)). The Commission should consider signal coverage and range experienced by Petitioner's customers a key factor in the cost/benefit analysis of public interest. IITA's propagation analysis assessed the size of the particular cellular tower and the strength of the antenna, the height and power of the receiver (Petitioner's customers generally use a .6 watt receiver), the radio spectrum used, and the topographical contour of the area, in determining Petitioner's coverage and the quality of service.

IITA complained that Petitioner's coverage reaches only part of the area for which it seeks ETC designation. It compared the map attached to U.S. Cellular's petition, showing its proposed service area, with maps it produced in response to Staff Data request JHH 3.03 (Petitioner's Exhibit 9), which purport to show Petitioner's current coverage and the coverage it would provide with additional cell towers. Large areas in central and east-central Illinois are uncovered outside the corridors of Interstate 55 between Chicago and Springfield, Interstate 57 between Chicago and Effingham, and Interstate 70 west of Effingham. The towers it proposes to build with universal service funds will have little impact on coverage.

c. Staff

Staff cited §214(e)(1) of the Telecommunications Act of 1996 (47 U.S.C. §200 et seq.) (the "Act") as containing the minimum requirements for state ETC designation under § 214(e)(2). The designate is to offer services supported by USF mechanisms using either its own facilities or its own combined with another carrier's resold services, and advertise the availability of, and charges for, such services in media of general distribution. Staff listed the nine services supported by the USF and added that the Act requires that the FCC or the Commission determine that an ETC designation serve the public interest, convenience, and necessity before granting ETC status.

Staff also asserted that ETC designation should be predicated upon Petitioner's willingness to participate in a rulemaking addressing the applicability of Parts 730 and 735 pertaining to service quality and consumer satisfaction. Such a rulemaking would also include dropped calls and weak signal strength, but it is anticipated that new rules would supercede Parts 730 and 735.

d. Illinois Bell

Illinois Bell advocated that the Commission, in evaluating U.S. Cellular's petition, use the framework adopted by the FCC in the ETC Order because it fosters three important policy objectives: improve the long term sustainability of the universal service fund; allow for a more predictable ETC designation process; and ensure designation of carriers that are financially viable, likely to remain in the market, willing and able to provide the supported services throughout the designated service area, and able to provide consumers an evolving level of universal service. State decisions have national implications affecting the dynamics of competition and the size of the USF. Adherence to the ETC Order will improve the long-term sustainability of the USF, allow for a more predictable designation process and ensure the financial viability of the carrier. Illinois Bell stressed that implementing the ETC Order is clearly in the public interest. (ETC Order, ¶18).

e. Commission Analysis and Conclusions

Both Staff and interveners expressed concerns that Petitioner would not be able to furnish this service on an uninterrupted basis, citing the possibility of dropped calls and weak signal strength. Staff proposed that Petitioner's eligibility be predicated on its willingness to participate in a rulemaking addressing such potential problems, because they are not covered by Part 730. Petitioner has already suggested that a rulemaking would also be appropriate in order to determine what provisions of Parts 730 and 735 are specifically applicable to wireless service and also to address the issue of dropped calls and weak signal strength. The Commission concurs but cautions that since rulemakings can be very long and involved processes, ETC designation would not be conditioned upon conclusion of a rulemaking docket, but only upon Petitioner's express willingness to be a party.

IITA raised the concern that Petitioner's coverage does not reach sparsely populated, high-cost corridors, except along I-55 between Chicago and Springfield, along I-57 between Chicago and Effingham and along I-70 west of Effingham. IITA also appears to have provided the remedy to this situation. It cited ETC Order ¶22 in stating that Petitioner is not required to serve every inch of territory for which it seeks designation, but it can obtain such designation if it can demonstrate how to provide service outside the network by (1) modifying or replacing a customer's equipment; (2) deploying roof-mounted antenna or other equipment; (3) adjusting the nearest cell tower or (4) a network or a customer's facilities; (5) reselling another carrier's services; or (6) employing, leasing, or constructing an additional cell site, cell extender, repeater or

similar equipment. (IITA Init. Br. at 25). Petitioner could have provided an explanation in a five-year plan how it intends to accomplish this and how USF funding would provide support, however such a plan is not in evidence. Petitioner provided no other evidentiary basis to conclude that ETC designation and USF funding will improve service in areas with limited or no coverage. The Commission concludes that Petitioner has not met its burden on this issue.

2. Local Usage

"Local usage" means an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users;

a. Petitioner

Petitioner stated that, while it is required to offer a rate plan comparable to an ILEC's, not one that mirrors the ILEC's, it would offer rural consumers a variety of rate plans of equal or superior value to those offered by ILECs. Petitioner asserted that it is not required to provide a side-by-side comparison to each ILEC plan or to offer unlimited local usage. The high-priced plans compare favorably with the landline network by giving mobile callers the opportunity to receive and place calls without the inconvenience or expense of hotel phones, pay phones, or calling cards. Rural ILECs limit consumers to a handful of local numbers to call and impose toll charges for all other calls. Petitioner would offer a lower cost alternative. In situations where customers exceed their rate-plan minutes, they are encouraged to switch to rate plans that better suit their usage.

Petitioner stated that among its variety of local usage plans is the "Mw Local 1000" available for \$39.95 per month, offering 1000 anytime minutes and unlimited minutes on incoming calls inside the home area. Petitioner said it also offers the "Mw 800" rate plan for \$49.95 per month that includes 800 anytime minutes and a local calling scope consisting of the contiguous United States. Both plans include voice mail, caller ID, call waiting, and call forwarding as standard features. Petitioner noted that the El Paso Telephone Company offers a plan closest to the "Mw 800" for \$54.95 per month with only 600 bundled local and long distance minutes. (Petitioner Exh. 4 at 4). Petitioner concluded that its rate plans are comparable to those offered by ILECs in that each delivers the same or superior value to customers. Each plan offers mobility, wider calling areas, and several vertical features for which ILECs charge extra. (Id at 5-6).

Petitioner added that if customers do not consider Petitioner's services to be affordable, they will not subscribe to them. Since Federal high-cost support is based upon customers served per-line, Petitioner will not receive support if customers do not subscribe. IITA's comparison of local rates for IITA member and Petitioner service offerings was meaningless, insofar as it contained different calling scopes and different features. Further, IITA appears to be under the mistaken belief that supporting these higher rates suggests a belief that higher prices are eligible for a higher level of support. Per-line support is a fixed amount unrelated to Petitioner's retail rate. The USF would

not support Petitioner's services; it is designed to support investment in rural network infrastructure. Designating a new ETC creates incentives for ILECs and the ETC to become more efficient, which would lead to lower prices over time. Using the USF to build infrastructure rather than offset a short-term rate reduction supports this long-term objective. (Petitioner Exh. 3 at 23-25).

Petitioner also pointed out that if IITA truly believed that Petitioner's rates are so high that it posed no competitive threat that would obviate any reason for opposing the petition. Such a competitive threat would also likely be viewed by a consumer as an opportunity to purchase more affordable service. Nor can Petitioner use the USF to expand its infrastructure if it is using those same funds for rate reduction. The customer is in the best position to determine whether rates are affordable. The customer is also free to choose another carrier if it considers Petitioner's rates to be too high. (Id. at 25-26). Similarly, Petitioner will also be denied high-cost support if service quality fails to meet a customer's expectations.

b. IITA

IITA argued that Petitioner has not offered a local usage plan comparable to the ILEC plan in areas for which it seeks designation, citing the ETC Order that "(A)n ETC Applicant shall demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation." (ETC Order ¶25). The ETC Order recommends a comparison of Petitioner's local usage to plans offered by ILECs in the area for which it seeks designation. IITA asserted that U.S. Cellular's petition is inadequate because it fails to provide rates truly comparable to local service rates available in the study areas for which it seeks designation. IITA added that Petitioner has not demonstrated that its rates for service are low enough to bring direct benefits to consumers in the proposed ETC areas. It pointed out that Petitioner offered no explanation as to how its rates could compare to the \$20.39 rate the Commission set for rural phone companies for the universal service fund and the assumed 400 minutes of local usage. IITA also noted that its ILECs charge a flat fee for unlimited local usage, ranging from \$20 to \$30 per month for residential service. Petitioner's lowest rate, \$24.95 per month, includes only 125 anytime minutes. Petitioner also discussed a \$35 plan, while its lowest priced calling plan charges \$39.95 per month for 1000 minutes. Petitioner does not offer a true unlimited calling plan, indicating that there is no public interest need to grant universal service funds to Petitioner at this time. Moreover, the first principle of the Act and the intent of the universal service fund is to provide just, reasonable, and affordable rates. Petitioner's rates do not do that. (IITA Exh. 1 at 27-28).

c. Staff

Staff pointed out that the ETC Order specifies that entities seeking ETC status are required to offer a local usage plan comparable to the plan offered by the ILEC, but the FCC declined to establish a local usage threshold. (ETC Order, ¶32). Staff determined that Petitioner offered some comparisons of its rate plans to some of the

ILEC plans, but had not done so for every service area and did not provide full details of its calling plans. Staff argued that the FCC stressed the importance of local usage over vertical features or long distance service, in terms of public interest criteria. Staff suggested that Petitioner develop rate plans that mirror those of the ILECs in each service area for which designation is sought. Petitioner answered that its calling plans compare favorably with wireline plans throughout the state. Staff recommended that the failure of Petitioner to provide a specific study-area by study-area comparability analysis was reason to deny its petition.

d. Commission Analysis and Conclusions

The ETC Order recommends that Petitioner offer a local usage plan comparable to one offered by the ILEC in the service area for which Petitioner seeks designation, but it does not require a specific local usage threshold. (ETC Order ¶¶32). The ETC Order further recommends that an ETC provide "...some minimum amount of local usage as part of its 'basic package' of supported services..." (ETC Order ¶¶33). Both Staff and IITA argued that Petitioner's analysis of its local usage plans did not satisfy the public interest because it did not provide rate comparability in each study area.

Petitioner responded to Staff and IITA arguments with Mr. Hunter's detailed description of Petitioner's various rate plans, including its Lifeline plan for low income customers that could be available for \$17.75 per month once discounts are applied. (Petitioner Exh. 2 at 5; Exh. 4 at 3-6). The Commission agrees with Staff and IITA that this response does not constitute the local usage rate plan comparison contemplated by the ETC Order. The Commission also agrees with Petitioner that a "comparable plan" is not one that strictly mirrors an ILEC plan. That would obviate the benefits of the comparison. A proper comparison would place the various and diverse features of each local usage plan side-by-side in printed form, enabling a consumer to assess at little more than a glance how one plan or another better suits that consumer's needs. We regard this approach to more adequately serve the public interest. While Mr. Hunter's testimony is of some value, the lack of a comparison to an ILEC local usage plan compels us to conclude that Petitioner has not met its burden of proof. As a prerequisite to ETC designation, Petitioner is required to develop local usage rate plan comparisons to the plans offered by ILEC in the service areas for which Petitioner seeks ETC designation.

3. Dual Tone Multi-Frequency Signaling or Its Functional Equivalent

"Dual tone multi-frequency" (DTMF) is a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time;

a. Petitioner

Petitioner stated in its petition that it provides dual tone multi-frequency ("DTMF") signaling to facilitate the transportation of signaling throughout its network. It uses out-

of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF signaling.

b. Commission Analysis and Conclusions

Petitioner made a blanket assertion that it has, in other jurisdictions offered the nine supported services mandated by §54.101(a), and that it will offer this service in Illinois. No party attempted to refute this testimony. The Commission sees no reason from the record in this matter to dispute Petitioner's declaration that it will also provide this service in Illinois.

4. Single-Party Service or Its Functional Equivalent

"Single-party service" is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;

a. Petitioner

Petitioner stated in its petition that 'Single-party service' means that only one party will be served by a subscriber loop or access line in contrast to a multi-party line. Petitioner provides single party service, as that term is defined in Section 54.101 of the FCC's rules.

b. Commission Analysis and Conclusions

No party raised any issue with regard to this supported service. The Commission again accepts Petitioner's plenary declaration that it provides single-party service in other jurisdictions and it will do so in Illinois.

5. Access to Emergency Services

"Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911," to call emergency services through a Public Service Access Point (PSAP) operated by the local government. "Enhanced 911" is defined as 911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALI), which permits emergency service providers to identify the geographic location of the calling party. "Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems;

a. Petitioner

Petitioner Exh. 9, Appendix A, illustrates where Petitioner does and does not provide high quality coverage. Petitioner stated that it has already constructed a network in rural areas, including cell sites, T-1, microwave, switching, and trunking facilities. It has a plan to use federal high-cost support to construct new network facilities, including ten new cell sites, in unserved or underserved areas, as illustrated by Petitioner's Exhibit 9, Attachment B. It plans to build additional cell sites beyond that. Petitioner's network is engineered to provide a call completion rate of approximately 98%, commensurate with the wireline industry norm. All of its cell sites have a minimum of four-hour battery backup and eight-hour battery backup at its switching sites. Both remote and key sites are equipped with diesel generators that can run indefinitely without refueling. Diesel generators are also located at Petitioner's switch locations and Petitioner has 30 portable diesel generators that can be moved to individual cell sites in the event of an outage. (Petitioner Exh. 4 at 30).

Each cell site is monitored 24 hours per day, seven days per week, and is equipped with alarms to alert technicians of problems. Petitioner's office is accessible from 6:00 a.m. to 11:00 p.m., seven days per week, and work crews are available to respond to outages 24 hours per day, seven days per week. Customer complaints and comments are referred to Petitioner's Operations Department to enable it to monitor work performance and improve customer service. (Petitioner Exh. 1 at 3). Petitioner has over 800,000 customers in Illinois. Only 171 complaints were received by either the Commission or the FCC in 2004, a complaint rate of 0.2 per 1000 handsets.

Petitioner asserts that consumers are currently able to take advantage of Petitioner's service in areas where network facilities have been constructed. High-cost support will permit Petitioner to extend its service to increase consumer choice in more areas. Petitioner's local calling area is the contiguous United States, far larger than the area covered by its competitors, and the area within which a customer could use Petitioner's phone is larger than that of any competitor. Petitioner's customers have the advantage mobility, an important public interest benefit, while its competitors' customers can only make a call from a single point at the end of a wire. Customers also have a selection of features such as voice mail, caller ID, call waiting, and call forwarding, plus short messaging service and multimedia messaging, innovative services not provided by its competitors.

Petitioner further argued that ETC designation would improve the public health and safety. Mobile phones provide a critical communication need in rural areas. With each new cell site added or increased channel capacity, the number of completed calls will increase. E9-1-1 service will also improve as new cell sites are constructed and Public Safety Answering Points come on-line. Petitioner also asserted that ETC designation would not burden the federal universal service support mechanism. Over 92% of the fund currently goes to ILECs, and ILECs have been recipients of over 86% of the fund since 1999. Petitioner is projected to receive less support than its wireline counterparts in every area it serves. Moreover, since the high-cost portion of the fund

exceeds \$3 billion, the impact of a competitive ETC designation would be minimal. (end 5)

b. IITA

IITA noted that the ETC Order stated that functionality was in the public interest. It required Petitioner to demonstrate that it has a reasonable amount of back-up power to ensure functionality without an external power source, be able to reroute traffic around damaged facilities, and manage traffic spikes resulting from emergency situations. (ETC Order at ¶25). IITA objected to the petition because Petitioner only generally addressed the matter of back-up power and presented no discussion of rerouting and traffic spikes.

c. Staff

Staff asserted that an ETC petitioner must demonstrate that it has a reasonable amount of backup power to ensure functionality without an external power source, can reroute traffic around damaged facilities, and is able to manage traffic spikes resulting from emergency situations. (ETC Order, ¶25). Staff stated that since Petitioner has a minimum of four-hour battery backup at all of its cell sites and an eight-hour minimum at its switching offices with generators on-site, it can comply with Part 730.325. This Part requires a reserve battery capability of five hours where generators are not installed and three hours where they are in place, plus battery maintenance according to Institute of Electrical and Electronic Engineers standards. It specifies that new central offices shall contain a battery supply of eight hours where generators are not installed and five hours where they are in place. Central offices with over 3,000 access lines shall have a permanent power generator. Emergency generator units are to have 12 hours of fuel available and be tested once per month with test records maintained. Part 730.550 requires notice to the Commission of minor and major service interruptions. (Staff Exh. 3 at 7). Staff deemed insufficient Petitioner's proposal to notify the FCC and provide only a copy of the filing to the Commission.

Staff stated that 9-1-1 service is phased in at two levels. Phase I provides the telephone number of the party originating a 9-1-1 call and the location of the cell site receiving a 9-1-1 call from a mobile phone. Phase II provides the telephone number of the call originator and the location by latitude and longitude. Illinois enacted the Emergency Wireless Telephone Safety Act (50 ILCS 751/1 et seq.), wireless 9-1-1 legislation, authorizing the Commission to create non-discriminatory, uniform technical and operational standards consistent with FCC rules. Commission standards are contained in 83 Ill. Adm. Code Part 728 (Standards of Service Applicable to Wireless 9-1-1 Emergency Systems). Petitioner is fully compliant with all federal requirements for the provision of 9-1-1 service and has deployed Phase I and Phase II service within the six month time frame required for each phase as requested by the appropriate Public Safety Answering Point. Although Petitioner stated that it would comply with 50 ILCS 751/1 et seq. and Part 728, Staff urged the Commission to reiterate this requirement as a condition of ETC status. (Staff Exh. 5.0 at 4-5).

d. Illinois Bell

Illinois Bell stated that ETCs are required to remain operational during emergencies so consumers will have service when they need it most and its actions will be reviewed annually to ensure compliance with §254 of the Act.

e. Commission Analysis and Conclusions

IITA complained that Petitioner only generally addressed FCC concerns articulated in ETC Order ¶125 regarding the emergency backup operations required by Part 730.325, and it made no mention of traffic spikes or rerouting. The Commission disagrees that Petitioner only generally addressed its backup power. Petitioner described its power source and backup system in considerable detail. (Petitioner Exh. 1 at 3, Exh. 4 at 30). The Commission agrees with Staff that Petitioner is compliant with the terms of Part 730.325. However, while the ETC Order requires Petitioner to have enough backup power to reroute traffic around damaged facilities and be capable of managing traffic spikes Petitioner's testimony did not specifically mention the terms "rerouting" or "traffic spikes" Those capabilities must be specifically addressed as required by ETC Order ¶125 before Petitioner can be deemed in compliance with this requirement.

Staff expressed its concern that Petitioner waited until it issued the surrebuttal testimony of Mr. Hunter to affirmatively state that it would comply with the Illinois Wireless Emergency Telephone Safety Act (50 ILCS 751) and 83 Ill. Adm. Code Part 728. (Petitioner Exh. 6 at 3-4). Staff suggests that the Order in this docket should direct Petitioner to comply with these provisions as a condition of ETC designation. Contrary to Staff's allegation that Petitioner did not respond to Staff's request in its rebuttal testimony, Mr. Hunter clearly states in his rebuttal testimony that the company is confident of its ability to abide by 50 ILCS 751 et seq. and Part 728. (Petitioner Exh. 4 at 34). Petitioner's assurances satisfy our concerns that Petitioner will abide by all state statutes and regulations regarding the provision of emergency services.

6. Access to Operator Services

"Access to operator services" is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;

a. Petitioner

Petitioner stated in its petition that its customers can access operator services in the traditional manner by dialing "O".